

**STATE OF LOUISIANA
DIVISION OF ADMINISTRATIVE LAW
ETHICS ADJUDICATORY BOARD**

BOARD OF ETHICS

*** DOCKET NO. 2021-2844-ETHICS-A**

IN THE MATTER OF

JEAMIE F. MCCULLEN

*** AGENCY TRACKING NO. 5121-034**

DECISION AND ORDER

The Louisiana Board of Ethics, in its capacity as the Supervisory Committee on Campaign Finance Disclosure, requested an adjudicatory hearing to have the Ethics Adjudicatory Board determine whether Jeamie F. McCullen failed to file her 10-G and 40-G campaign finance disclosure reports by the eleventh day after each was due, in connection with her 2020 candidacy for the office of Alderman, Town of Franklinton, Parish of Washington. The Louisiana Board of Ethics proved by clear and convincing evidence that Jeamie F. McCullen failed to file her 10-G and 40-G campaign finance disclosure reports as alleged. The Louisiana Board of Ethics is authorized to impose an additional civil penalty not to exceed \$10,000 against Jeamie F. McCullen for each report pursuant to Louisiana Revised Statutes 18:1505.4(A)(4)(b).

JURISDICTIONAL AUTHORITY

The Ethics Adjudicatory Board (EAB) is a legislatively created board, as contemplated by Article X, Section 21 of the Louisiana Constitution. The EAB has original jurisdiction under Louisiana Revised Statutes (La. R.S.) 42:1141.5 to determine whether violations of the Code of Governmental Ethics, La. R.S. 42:1101, *et seq.*, have occurred and to conduct hearings under La. R.S. 18:1505.4 for specific violations of the Campaign Finance Disclosure Act (CFDA), La. R.S. 18:1481, *et seq.*

This adjudication is conducted in accordance with the CFDA, the Code of Governmental

Ethics, the Administrative Procedure Act, La. R.S. 49:950, *et seq.*, and La. R.S. 49:991, *et seq.*, and the enabling legislation for the Division of Administrative Law, La. R.S. 49:991, *et seq.*

APPEARANCES

The hearing was held on November 29, 2021, in Baton Rouge, Louisiana, before Panel A of the Ethics Adjudicatory Board.¹ Charles E. Reeves, Jr., appeared as counsel on behalf of the Board of Ethics. Though properly noticed, Jeannie F. McCullen did not appear for the hearing.²

STATEMENT OF THE CASE

In connection with Jeannie F. McCullen's (Respondent) 2020 candidacy for the office of Alderman, Town of Franklinton, Parish of Washington the Louisiana Board of Ethics (BOE), in its capacity as the Supervisory Committee on Campaign Finance Disclosure, imposed civil penalties against her for failing to file two campaign finance disclosure reports by their deadlines. One report was due by the tenth day before the general election (10-G report), and one was due by the fortieth day after the general election (40-G report). After imposing the civil penalties, the BOE requested a hearing to have the Ethics Adjudicatory Board (EAB) determine whether Respondent failed to file her 10-G and 40-G campaign finance reports by the eleventh day after each was due, which may subject her to an additional civil penalty not to exceed \$10,000 for each report pursuant to La. R.S. 18:1505.4(A)(4)(b).

Counsel for the BOE offered 15 exhibits during the hearing, which were admitted into evidence. Counsel presented the case on behalf of the BOE, after which the record was closed, and the matter was taken under advisement.

¹ The panel consisted of administrative law judges Sherlyn D. Shumpert (presiding), Lance B. Vinson, and A. Brock Avery.

² On September 16, 2021, the *Conference Report and Order* setting this matter for hearing and Division of Administrative Law correspondence notifying Ms. McCullen of the hearing date and time were mailed to her last known address: 2315 Greenlaw Avenue, Franklinton, Louisiana 70438. These documents are parts of the record in this matter; the Board of Ethics also included them as BOE-14, an exhibit that was admitted into evidence.

FINDINGS OF FACT

- 1) Respondent qualified as a candidate for the office of Alderman, Town of Franklinton, Parish of Washington in the November 3, 2020, primary election,³ and received \$2,500 in campaign contributions.⁴
- 2) Respondent received 10 percent of the vote in the primary election and qualified to participate in the December 5, 2020, general election.⁵ Respondent was defeated in the general election, receiving 25 percent of the vote.⁶
- 3) When she qualified as a candidate in the November 3, 2020, primary election, Respondent acknowledged that she was subject to the provisions of the CFDA.⁷
- 4) Respondent was required to file a 10-G report no later than November 25, 2020, the tenth day prior to the December 5, 2020, general election.⁸
- 5) Respondent was required to file a 40-G report no later than January 14, 2021, the fortieth day after the December 5, 2020, general election.⁹
- 6) Respondent did not file her 10-G report or 40-G report by the eleventh day after each was due.¹⁰
- 7) On May 6, 2021, the BOE served Respondent with the *Request for Hearing* to have the EAB determine whether Respondent failed to file her 10-G report by the eleventh day after it was due.¹¹ On June 17, 2021, the BOE served Respondent with an *Amended Request for*

³ See BOE-2 (Louisiana Secretary of State certificate and *Notice of Candidacy*).

⁴ BOE-5, p. 2.

⁵ BOE-3, p. 3.

⁶ BOE-3, p. 5.

⁷ See BOE-2, p. 4.

⁸ BOE-4, p. 1; *see also* La. R.S. 18:1495.4(B)(5).

⁹ BOE-4, p. 1; *see also* La. R.S. 18:1495.4(B)(6).

¹⁰ BOE 10 (Affidavit of Angela Newsome, Director of Campaign Finance for the BOE, stating that, as of September 9, 2021, Respondent had still not filed her 10-G report) and BOE-15 (Affidavit of Kristy Gary, Deputy Ethics Administrator for the BOE, stating that, as of November 29, 2021, Respondent had still not filed her 10-G report).

¹¹ See BOE-6, p. 14 (certified mail receipt with “COVID-19” designation).

Hearing to have the EAB determine whether Respondent failed to file her 10-G report and 40-G report by the eleventh day after each was due.¹²

CONCLUSIONS OF LAW

Respondent knowingly failed to file her 10-G and 40-G reports by the eleventh day after each was due. For these failures, the BOE is authorized to impose additional civil penalties against Respondent as allowed by La. R.S. 18:1505.4(A)(4)(b).

Adjudicatory hearings under La. R.S. 18:1505.4(A)(4)(a) and (b) cover two kinds of campaign finance disclosure reports candidates must file in connection with elections. La. R.S. 18:1505.4(A)(4)(a) addresses reports that candidates must file between the time the candidate qualified for the election and the election day. La. R.S. 18:1505.4(A)(4)(b) addresses “other reports” candidates must file in connection with elections that fall outside the time frame in the previous provision. In order to impose additional civil penalties in this matter, the BOE must prove by clear and convincing evidence¹³ that the candidate knowingly¹⁴ failed to file a required report within eleven-day period following when it was due.

Respondent was a candidate for the office Alderman, Town of Franklinton, Parish of Washington, which is not a “major” or “district” office.¹⁵ Each candidate for “any other public office”¹⁶ who spends more than \$2,500 or receives a contribution over \$200 is required to file certain campaign finance disclosure reports by the statutory deadlines.¹⁷ Failure to timely submit

¹² See BOE-7, pp. 15-16 (certified mail receipt).

¹³ See La. R.S. 42:1141.5(C). “‘Clear and convincing evidence’, in general, means that the fact of guilt must be proven to a greater degree than by ‘a mere preponderance of the evidence’ but less than by ‘beyond a reasonable doubt. The standard requires that the existence of the disputed fact be [h]ighly probable, that is, much more probable than its non-existence.’” *Louisiana State Bar Ass’n v. Edwins*, 329 So. 2d 437, 442 (La. 1976)(internal citations omitted).

¹⁴ See La. R.S. 18:1505.4(A)(1).

¹⁵ See La. R.S. 18:1483(7) and (11) for the definitions of “district office” and “major office,” respectively.

¹⁶ In this decision and in the Ethics Code, “any other public office” refers to one which is one which is not a “major office” or a “district office.” See La. R.S. La. R.S. 18:1484(1) and (2); see also BOE-4, p. 2 (defining “Any other offices” as “those offices which to not fall within the definitions of ‘major’ or ‘district’ offices”).

¹⁷ See La. R.S. 18:1484(2).

required reports constitutes a violation of the CFDA.¹⁸

Respondent was a candidate for a public office and reported campaign contributions in excess of \$200. As a candidate for a public office, Respondent was required to file a 10-G report by the tenth day prior to the general election,¹⁹ and a 40-G report by the fortieth day after the general election.²⁰ Respondent did not file a 10-G report or 40-G report by the statutory deadlines or by the eleventh day after each was due.

If, after conducting an adjudicatory hearing, the EAB determines that Respondent knowingly failed to file a required campaign finance disclosure report within the applicable time period, then the BOE may impose an additional civil penalty not to exceed \$10,000 against Respondent for each report that she failed to timely file.²¹ Failure to file a required report within three days after the final date for filing creates a rebuttable presumption of intent to not file the report.²² Nothing in evidence rebuts this statutory presumption.

With the benefit of the un rebutted statutory presumption of intent not to file, the BOE proved by clear and convincing evidence that Respondent knowingly violated the CFDA by failing to file her 10-G report by November 25, 2020, and her 40-G report by January 14, 2021, the eleventh day after each was due, respectively. As a result, the BOE is authorized to impose an additional civil penalty of up to \$10,000 for each report as allowed by La. R.S. 18:1505.4(A)(4)(b).

¹⁸ La. R.S. 18:1505.1(B).

¹⁹ La. R.S. 18:1495.4(B)(5).

²⁰ La. R.S. 18:1495.4(B)(6).

²¹ La. R.S. 18:1505.4(A)(4).

²² La. R.S. 18:1505.1(A).

ORDER

IT IS ORDERED that the Louisiana Board of Ethics, in its capacity as the Supervisory Committee on Campaign Finance Disclosure, is authorized to impose an additional civil penalty not to exceed \$10,000 against Jeannie F. McCullen for failing to file her 10-G campaign finance disclosure report by the eleventh day after it was due.

IT IS FURTHER ORDERED that the Louisiana Board of Ethics, in its capacity as the Supervisory Committee on Campaign Finance Disclosure, is authorized to impose an additional civil penalty not to exceed \$10,000 against Jeannie F. McCullen for failing to file her 40-G campaign finance disclosure report by the eleventh day after it was due.

Rendered and signed on January 7, 2022, in Baton Rouge, Louisiana.

Sherlyn D. Shumpert

Sherlyn D. Shumpert
Presiding Administrative Law Judge
Ethics Adjudicatory Board - Panel A

A. Brock Avery

A. Brock Avery
Administrative Law Judge
Ethics Adjudicatory Board - Panel A

Lance B. Vinson

Lance B. Vinson
Administrative Law Judge
Ethics Adjudicatory Board - Panel A

NOTICE OF TRANSMISSION OF DECISION OR ORDER

I certify that on Monday, January 10, 2022, I have sent a copy of
this decision/order to all parties of this matter.

Clerk of Court

Division of Administrative Law

REVIEW RIGHTS

Requests for rehearing, reopening, or reconsideration are subject to the procedures, timing requirements, and legal grounds provided in La. R.S. 49:959, with the time for filing calculated pursuant to Louisiana Code of Civil Procedure (La. C.C.P.) article 5059. To determine your review rights, you should act promptly.

To request rehearing, reopening, or reconsideration, please send it to one of the addresses indicated below:

EMAIL documents to:
EABprocessing@adminlaw.la.gov

FAX documents to:
(225) 219-9820

MAIL documents to:
DAL – EAB Section
P. O. Box 44033
Baton Rouge, LA 70804-4033

If you do not request rehearing of your decision or your rehearing request is denied, you may have the right to seek judicial review in accordance with La. R.S. 42:1142(A)(1), with the time for requesting judicial review calculated pursuant to La. C.C.P. art 5059. To determine your review rights, you should act promptly.